



CITY OF DURHAM | NORTH CAROLINA

MEMORANDUM

To: Thomas J. Bonfield, City Manager

Through: Keith Chadwell, Deputy City Manager

From: Kevin Dick, Director – Office of Economic and Workforce Development

Date: April 25, 2011

Subject: Recommendation for a Public Hearing on the Establishment of a Municipal Services District in Downtown Durham

Executive Summary

This item recommends a public hearing on the establishment of a Municipal Service District (MSD), (sometimes referred to as a Business Improvement District or “BID”) at a tax rate of \$.07 per \$100 of assessed value for real and personal property in Downtown Durham in accordance with the Municipal Service District Act of 1973 (the “Act”) contained in Article 23 of Chapter 160A of the North Carolina General Statutes. The establishment of a BID addresses the following needs:

- 1) The need for enhanced services that will make downtown more attractive for economic development and visitor attraction, and will therefore be more competitive with other similarly situated cities;
- 2) The need to create a financing mechanism that increases the ability of the public and private sector to execute the goals outlined in the Downtown Durham Master Plan that was developed in 1999 and updated in 2008.

Recommendation

OEWD recommends that City Council authorize the City Manager to schedule a public hearing for the purpose of receiving public input on whether a Municipal Service District should be established for in downtown Durham effective July 1, 2011.

Background

A Municipal Service District (MSD), commonly referred to as a Business Improvement District (BID), is being proposed for the Downtown Durham area by Downtown Durham, Incorporated (DDI). A BID is a defined geographic area where property owners pay an additional tax in order to fund a variety of services that enhance, not replace, existing

municipal services within the district's boundaries. There have been ongoing discussions on the prospect of a BID for downtown over the past decade. Examples include a study that was undertaken by DDI in 1995, as well as a study undertaken on behalf of DDI by students at the Terry Sanford Institute of Public Policy at Duke University in 2002. Further, OEWD staff wrote a memorandum to then City Manager Patrick W. Baker on October 15, 2007 entitled "Justification for a BID", in which reasons were outlined for why a BID is needed in downtown Durham. From 2010 to 2011, DDI has engaged in the process of garnering support from downtown property owners for the passage of a BID in downtown that would be effective July 1, 2011, has negotiated with representatives of several City departments related to the establishment of services that the BID would provide, and has discussed the proper tax rate that would be levied under a BID.

David M. Lawrence's book from the UNC Institute of Government, Economic Development Law for North Carolina Local Governments, outlines the basic process and structure required under state law (G.S. 160A-537). These are summarized as follows:

Process Requirements

- 1) A report (Attachment B) is developed with a map (an enlarged version is included as Attachment D) of the proposed special district, a statement showing that it meets the legal criteria for a special district, and a plan that:
 - a. provides justification for the district and why there is a demonstrably greater need for it in the proposed area than any other area of the city;
 - b. identifies the services to be provided, outlines how these services will be provided and gives an appropriate method for accounting for expenditures.
- 2) A public hearing is set.
- 3) The report is filed with the City Clerk at least four weeks prior to the public hearing for public inspection.
- 4) A notice is mailed to all property owners within the proposed district at least four weeks prior to the public hearing and the mailing must be certified to the Council. A certification confirming this was completed by the administration is included as Attachment C.
- 5) The City publishes a notice of a public hearing on the plan at least a week prior to the hearing.
- 6) The City holds a public hearing.
- 7) The City Council votes on the special district and plan.

- 8) The special taxing district becomes effective at the beginning of the next fiscal year after passage.
- 9) The City must provide, maintain, or let contracts for the services within one year after the effective date of the definition of the district.

Structural Requirements

- 1) Only properties that benefit from the district services may be included within a district. OEWD recommends that both commercial and residential properties be included since they will all benefit from the four basic service functions (appearance, safety, marketing, special events) mentioned earlier.
- 2) While BIDs are assessed in a variety of ways in other parts of the country, in North Carolina BIDs are financed through a property tax district. This tax is in addition to the city-wide property tax but is levied on the same tax base (real and personal property) within the geographic limits of the district. Property owned by governments and churches are exempt, along with any other tax-exempt property. The BID tax rate must be uniform throughout the district. In North Carolina BIDs have no independent borrowing power.
- 3) North Carolina BIDs can provide a number of services such as maintenance of streets, sidewalks, extra security to supplement regular police, marketing and promotion, special events, downtown parking, business location and expansion and construction of capital improvements. OEWD recommends that a downtown BID begin with the four most needed basic service functions discussed in Section 1 which will have the greatest impact on the district.
- 4) A BID in North Carolina is a part of City government and the City Council must appropriate district tax revenues. The City may contract with an outside entity such as a private sector driven organization.

Issues and Analysis

Why is the BID Needed and What Services Are to Be Provided?

As discussed on page 4 of the DDI Report (attachment B), there are multiple reasons why there is a demonstrably greater need than other areas within the city for special services inside the proposed BID boundary. Most notably, the BID includes areas of downtown Durham that have been targeted for redevelopment and revitalization in recent years, and it is desired that such activities be fostered and encouraged uniformly over the entire BID for the overall economic health of downtown Durham. The geographic area of the proposed BID comprises different core units of downtown that share special connectivity, which can be reinforced by the establishment of the BID.

The BID area continues to grow as a primary area of destination causing a greater

intensity of pedestrian traffic than in other areas of the city. With projects like the Durham Performing Arts Center (DPAC) and other cultural and recreational amenities such as the Carolina Theater, the Durham Bulls Athletic Park, the CCB Plaza, the Downtown Durham Marriott and Civic Center, American Tobacco Campus, Brightleaf Square, Golden Belt and the openings of numerous restaurants throughout the proposed BID area over the past several years, downtown has experienced a marked increase in pedestrian intensity and activity, which is anticipated to continue.

There has also been a significant increase in the number of downtown residents over the past several years. In order to better nurture the revitalization activities within the BID, foster continued economic growth and health of downtown Durham and effectively support the increase in pedestrian activity, there is a demonstrable need for special services such as the following:

- Appearance and safety-related services

These services would consist of the following:

- 1) clean and hospitality services - a 7 person ambassador team;
- 2) enhanced sidewalk and furniture cleaning;
- 3) graffiti, litter and weed removal;
- 4) providing helpful information to public safety officers;
- 5) hospitality and ambassador services.

While the City does have an appearance crew that works downtown Durham, the crew works in other areas of the city as well. Therefore, the aforementioned services would be for the intent that is mandated by the Act – to provide enhanced services with the additional revenues to be generated by the BID tax rate.

- Promotion and marketing through promotional materials, maps, co-op ads and more, weekly events on the CCB plaza, enhancement of the pedestrian environment, and improvement of district image.

While the City does have a special events staff within the Parks and Recreation Department that focuses on major annual downtown events such as the Bimbe Festival, Earth Day and others, the services proposed for the BID would be provided on an ongoing nature and be enhancements that build upon the capacity of the City to provide special events that add street level retail, cultural and recreational activity on downtown streets on a frequent basis. Again, these services would be enhanced, since the City does not currently provide them in downtown on an ongoing and frequent basis. Also, promotional materials would be enhanced in terms of distribution, volume and quality so that efforts toward attracting new residents and businesses to downtown could be strengthened.

- Economic development through an increase in street level activity, retail and business recruitment, residential growth, tax base growth, job creation growth, and property value growth.

Enhanced economic development services would include more detailed market analyses and public policy analysis that would strengthen downtown revitalization efforts. This would include, but not be limited to more expansive research of other municipalities that are successfully revitalizing their downtowns and urban areas, as well as the enlistment of third parties where necessary to evaluate proposed initiatives.

Plan for Service Delivery and Administration

This is covered in detail on page 10 of DDI Report. In summary, it is intended that the City will contract for the services to be administered by Downtown Durham, Inc. – a 501(c) – 6 organization that has been in existence in downtown since 1993. If the established of a BID is approved, a contract with DDI for the administration of the BID would be recommended by the administration and presented to City Council for review.

Tax Rate

Downtown property owners are proposed to be assessed \$.07 per \$100 of assessed value for real and personal property. For example - at \$100,000 of tax value the annual cost for tax payer equals \$70 per year.

Alternatives

The City Council could vote not to establish a BID for downtown Durham. Such a decision could deny the opportunity for downtown to gain enhanced services above and beyond what could be currently provided within the general fund.

An alternative could be for the City to directly fund enhanced services that have been proposed for provision with the BID.

Financial Impact

Revenues from the aforementioned tax on downtown property owners would pay for enhanced services. This item would not impact the current General Fund; however it would impact the General Fund in the future since anticipated tax revenues would fund proposed services.

SDBE Summary

An SDBE summary is inapplicable because no project-specific goals have been set and no SDBEs are involved in this item.

Attachments:

A – NO ATTACHMENT A

B – MSD Report

C- Certification of Mailing to Property Owners

D- Enlarged Map of Proposed MSD or BID Area